

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

**Information Disclosure Statement**

At the outset, Applicant respectfully requests acknowledgement of the receipts of the Information Disclosure Statement filed together with this application October 11, 2005, and appropriate consideration and return of the initialed SB-08 from the IDS filed May 8, 2009.

**Disposition of Claims**

Claims 1-18, 20, 21, 23, 26, 27, and 29-48 were pending in this application. By way of this reply, claims 1-18, 20, 21, 23, 26, and 30-41 have been canceled without prejudice or disclaimer. Also, new claims 49-57 have been added. Thus, claims 27, 29, and 42-57 are now pending in this application. Claims 27, 29, and 42-48 are independent. Claims 49-57 depend directly from claims 27, 29, and 42-48, respectively.

**Claim Amendments**

By way of this reply, claims 27, 29, and 42-48 have been amended to clarify the claimed invention. Specifically, the claims have been amended to incorporate the feature “wherein said content server is configured to count the number of contents that has been successfully written to the memory cartridge upon each receipt of a notification that the content is successfully written to the memory cartridge, wherein the counted number is used to calculate copyright fees.” Support for the amendments may be found in canceled claim 26, and paragraphs [0162], [0228], and [0416] of the published specification. Further, claim 27 has been amended into independent

form including substantially all of the limitation of base claim 29. Further, claims 46-48 have been amended so that the claimed invention is directed to a “tangible” computer-readable medium. Further, new claims 49-57 have been added. Support for the new claims may be found in, for example, paragraph [0143] of the published specification. No new matter has been added by these amendments.

**Specification Objection(s)**

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner asserts that the specification does not provide antecedent basis for the term “computer-readable medium” recited in claims 46-48. This objection is respectfully traversed for the reasons set forth below.

With regard to claim 46, for example, the specification and figures disclose the OTPROM 17, for example, shown in Figure 2, as an exemplary recordable medium, and the OTROM 17 carries programmable logic manipulating data, for example, associated with the memory map shown in Figure 5. Further, it is disclosed in the specification that the processor 184 shown in Figure 34 executes the system program stored in the OTROM 17 (*see, e.g.*, paragraph [0303] of the published specification). Thus, it is clear that the OTROM 17 fully supports the term “computer-readable medium” recited in claim 46.

With regard to claim 47, for example, the specification and figures disclose that the Web server 1 performs a process as an embodiment of the claimed process (*see, e.g.*, Figures 7 and 17-30, and paragraph [0156] and [0209]-[258] of the published specification). According to the disclosure of the specification and figures, it is clear that the Web server performs a process associated with the other elements in the entire karaoke data delivery system based on an instruction program. Thus, Applicant respectfully submits that an ordinary skill in the art would

understand there exists a tangible computer-readable medium either in the Web server 1 or in another element of the system that stores the claimed program.

With regard to claim 48, for example, the specification and figures discloses the auxiliary storage device 99, for example, shown in Figure 7 as an exemplary recordable medium. The auxiliary storage device 99 carries programmable logic which enables a writing device to perform a process as an embodiment of the claimed process (*see, e.g.*, paragraphs [0150] and [0188] of the published specification).

Accordingly, withdrawal of the objection is respectfully requested.

#### **Claim Objection(s)**

Claim 27 was objected to, as being of improper dependent form for failing to further limit the subject matter of a previous claim. By way of this reply, claim 27 has been written in independent form substantially including all of the limitations of base claim 29 per the Examiner's suggestion. Accordingly, withdrawal of this objection is respectfully requested.

#### **Rejection(s) under 35 U.S.C. §101**

Claims 46-48 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. As discussed above, by way of this reply, the claims have been amended so that the claimed invention is unequivocally directed to a "tangible" computer-readable medium, which is clearly statutory subject matter. Further, as discussed above, such "tangible" computer-readable medium as recited in the claims are sufficiently supported by the specification and figures. Therefore, the withdrawal of this rejection is respectfully requested.

**Rejection(s) under 35 U.S.C. §112**

Claims 26, 27, 29, and 42-48 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the term “proprietary” recited in the claims is indefinite. This rejection is respectfully traversed for the reasons set forth below.

Applicant respectfully submits that the term “proprietary” is used simply to define a specific configuration, which is “not compatible with pre-existing commercial systems.” Furthermore, Applicant believes that this meaning is clear and definite from the context in the specification of the present application to one of ordinary skill in the art.

For example, it is stated in paragraph [0174] of the published specification that “[a] cheaper semiconductor chip of a mass-marketed flash memory module is put into a proprietary package, which is not compatible with the standard package of the mass-marketed flash memory module to provide a proprietary interface. In a simple implementation, the proprietary package is designed by functionally swapping terminals, changing the design of terminals, or the like, as compared with the compatible package. In this case, the writer 7-N is also designed by functionally swapping terminals, changing the design of terminals, and so forth, as compared with the compatible writer of the mass-marketed flash memory module. Accordingly, a commercially available memory chip of the mass-marketed flash memory module and a commercially available memory controller chip can be used and therefore it is possible to implement the system with ease at a low cost.”

In view of the above, Applicant respectfully submits that, in the context of the present specification and claims, the meaning of the term “proprietary” is clear and the specific manner

in which the “proprietary” interface is different from the “standard” interface would be readily appreciated by those skilled in the art. Thus, the meaning of the term is not indefinite. Accordingly, withdrawal of the rejection is respectfully requested.

**Rejection(s) under 35 U.S.C. §103**

Claims 27, 29, and 42-48 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication Application No. 2003/0041123 (“Sato”) in view of U.S. Patent Publication Application No. 2001/0006503 (“Braiberg”). Also, claim 26 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Braiberg, and further in view of U.S. Patent No. 5,886,275 (“Kato”). As discussed above, by way of this reply, claim 26 has been canceled without prejudice or disclaimer. Thus, with regard to claim 26, the rejection is now moot. Regarding claims 27, 29, and 42-48, these claims have been amended to clarify the claimed invention. Specifically, claims 27, 29, and 42-48 have been amended to substantially include the features of claim 26 and additional limitations. Thus, to the extent that the rejection relying on Sato, Braiberg, and Kato may still apply to claims 27, 29, and 42-48, as amended, the rejection is respectfully traversed for the reasons set forth below.

As noted previously, one or more embodiments of the claimed invention are directed to a data delivery system, in which a server delivers data to a writer unit through a network and the writer unit writes the data to a recordable medium. Particularly, the recordable medium applied to the system includes a plurality of writable storage areas, in each of which data can be written. Further, the data delivery system is constructed so that the writer unit can write data only once in each writable storage area, where data has not been previously written. Due to this feature, the

data delivery system prevents the situation in which new data is written over old data in the same storage area of the recordable medium.

Further, one or more embodiments of the claimed invention relate to a unique transaction process for accurately calculating the copyright fee for provided services. For example, in one or more embodiments of the claimed invention, a Web server 1 receives the successful write operation notification from the user terminal 5-N. In response to the successful write operation notification as received, the Web server 1 counts, for each of the respective music pieces, the number of times the karaoke data has been successfully written to the OTPROM 17. The copyright fee payable by the service provider can be calculated on the basis of this count value (See, for example, paragraphs [0162] and [0228] of the published specification). Due to the feature, it is possible to keep track of the number of contents that has been successfully written so that copyright fees to be paid can be accurately calculated.

Accordingly, independent claims 27, 29, and 42-48, as amended, require, in part, the feature “wherein said writer writes the content only once in a writable storage area of said memory cartridge where data has not been written, only when said memory cartridge is appropriate for said content delivery system,” and “*wherein said content server is configured to count the number of contents that has been successfully written to the memory cartridge upon each receipt of a notification that the content is successfully written to the memory cartridge, wherein the counted number is used to calculate copyright fees.*”

In contrast, Sato discloses Sato shows a blank medium including an ID data related to payment information for use of the medium. However, Sato neither shows, nor suggests, any feature for “*counting the number of contents that has been successfully written to the memory cartridge upon each receipt of a notification,*” in relation with the payment information, as required by the claimed invention. Applicant notes that, importantly, one of advantages of the

claimed invention is capability of not only preventing from fraudulent transaction, but also, accurately calculating copyright fees for provided services in an online business. In other words, Sato fails to show or suggest at least the limitation, *“wherein said content server is configured to count the number of contents that has been successfully written to the memory cartridge upon each receipt of a notification that the content is successfully written to the memory cartridge, wherein the counted number is used to calculate copyright fees,”* as now required by amended claims 27, 29, and 42-48.

Braitberg discloses an optical data storage system including a data cartridge which can be removed by a user. However, Braitberg also fails to show or suggest at least the limitation, *“wherein said content server is configured to count the number of contents that has been successfully written to the memory cartridge upon each receipt of a notification that the content is successfully written to the memory cartridge, wherein the counted number is used to calculate copyright fees,”* as now required by amended claims 27, 29, and 42-48.

Kato discloses basic and general feature of a system for transmitting karaoke data through a communication line. However, Kato is substantially directed to efficiently transmitting karaoke data employing a specific format of a data package and, thus, merely shows control logic and technique for efficient data transmission. Consequently, Kato fails to show or suggest the feature, *“wherein said content server is configured to count the number of contents that has been successfully written to the memory cartridge upon each receipt of a notification that the content is successfully written to the memory cartridge, wherein the counted number is used to calculate copyright fees,”* as now required by amended claims 27, 29, and 42-48.

Furthermore, Applicant submits that it is not sufficient for the purposes of supporting a rejection of obviousness to merely rely on unassociated factors which might be related to the functionality of elements as claimed. As was made clear by the Supreme Court in *KSR Int 'l Co.*

v. *Teleflex Inc.*, when considering obviousness of a combination of known elements, the operative question is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” (82 USPQ2d at 1396). Further, the key to supporting any rejection under § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious (*see* MPEP §§ 2141, 2142).

However, in the instant case, the Examiner set forth no clear reasons why one skilled in the art would find it obvious to combine the various elements of the cited references. Applicant respectfully notes that the claimed invention substantially relates to a highly secured and efficient business transaction associated with transaction on an online business. In contrast, none of the reference is directed to any type of achieving such a specific and advantageous business transaction.

In fact, based on the actual teachings of the references, there exists absolutely no recognition of the advantages of the claimed invention and, further, the elements sought to be combined by the Examiner do not result in those advantages based merely on their established functions. Rather, it is the specific combination of elements that is recited in the claim that gives rise to the advantageous efficiency of the claimed system. Thus, the claim cannot be rendered obvious by Sato, Braitberg, and Kato, whether considered separately or in combination, not only because they fail to teach all of the limitations of the claims, but also, because one skilled in the art using common sense would not even look to combine these references in an attempt to achieve the claimed invention.

Accordingly, independent claims 27, 29, and 42-48, as amended, are patentable over Sato, because the reference fails to show or suggest the above feature “*wherein said content server is configured to count the number of contents that has been successfully written to the memory cartridge upon each receipt of a notification that the content is successfully written to the*



*memory cartridge, wherein the counted number is used to calculate copyright fees,”* as now required by the claimed invention.

In view of the above, Sato, Braitberg, and Kato whether considered separately or in combination, fail to teach or suggest all of the limitations of independent claims 27, 29, and 42-48. Thus, independent claims 27, 29 and 42-48 are patentable over Sato, Braitberg, and Kato. Accordingly, withdrawal of this rejection is respectfully requested.

**New claims**

New claims 49-57, which directly depend from independent claims 27, 29 and 42-48, respectively, are patentable for at least the same reasons as set forth above.

Further, the new claims include further limitations from the independent claims. Referring to the specification as an example, in one or more embodiments of the claimed invention, in the memory map of the OTPROM 17, usually, one music piece of karaoke data is written in one blank area (ak). However, it is possible to write one music piece of karaoke data over a predetermined number of the blank areas (ak). For example, in the case where one music piece of karaoke data has a size exceeding the blank area (ak), the data has to be written over a plurality of the blank areas (ak). Alternatively, even in the case where one music piece of karaoke data has a size up to the the blank area (ak), two or more blank areas (ak) may be consumed, if the value of the music piece is twice or more times that of a usual music piece. Karaoke data is written in units of the blank area (ak) in this manner (*See*, for example, Figure 4 and paragraph [0143] of the published specification).

Accordingly, the new claims the limitation “wherein said writable storage area comprises a plurality of blank areas, and wherein the writer consumes the writable storage area in units of blank areas and in accordance with a value of the content when the writes the content in the writable storage area.” Due to the claimed feature, for example, in a case in which one content (A) has a smaller data size than another content (B), but is more valuable than the content (B), the content (A) may consume more blank areas than the content (B). None of the cited references shows, or suggests, at least these features required by the new claims. Accordingly, the new claims are patentable also for these reasons.

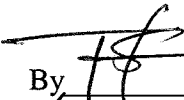
Thus, entry and favorable consideration of new claims 49-57 is respectfully requested.

**Conclusion**

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 04995/240001).

Dated: August 19, 2009

Respectfully submitted,

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